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# United States Department of Agriculture

## FOREST SERVICE

WILLIAM B. GREELEY, Forester

### STATE FORESTRY LAWS<sup>1</sup>

INTRODUCED BY CLASSIFIED SYNOPSES

### CALIFORNIA

(SERIAL 1—THROUGH REG. SESS., 1919.)

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### CONTENTS.

	Page.		Page.
Purpose of compilation.....	2	Synopsis of laws—Continued.	
Synopsis of laws.....	2	Fire organization and activities—Continued.	
General forestry organization and activities.....	2	State protective organization—Continued.	
State board of forestry.....	2	State board of control.....	6
State forester.....	2	Cooperation.....	6
Deputy State forester and assistant State forester.....	3	Distribution of costs of fire protection.....	7
State board of control.....	3	Local protective organization.....	8
State forest nursery.....	3	Tamalpais forest fire district.....	8
Cooperation.....	3	Various restricted areas in California.....	8
Investigation and education.....	3	Compulsory responsibility imposed upon landowners and	
Publications.....	3	others for protection of forest lands.....	8
Income from sources other than annual or biennial appro-		Public nuisance.....	8
priations.....	3	Brush and slash disposal.....	9
Fire organization and activities.....	3	Kindling fires in the open.....	9
State protective organization.....	3	Locomotive and other engines.....	9
State board of forestry.....	3	Landowners' responsibilities.....	10
State forester.....	3	Fire and other warning notices.....	10
Deputy State forester and assistant State forester.....	5	Public forests.....	10
District fire rangers.....	5	State forests.....	10
Fire wardens.....	5	Legal procedure.....	10
National forest officers (supervisors and rangers within		Criminal liability.....	10
the State).....	6	Civil liability.....	10
Patrolmen.....	6	Institution of proceedings.....	11
Special fire rangers.....	6	Disposition of penalties.....	11
Justices of the peace, constables, and road overseers..	6	Taxation.....	11
Fire-fighting laborers.....	6	Text of laws.....	11
		Explanatory notes.....	22

<sup>1</sup> The State Forestry Laws leaflets which have been already published are as follows: No. 1, Wisconsin; No. 2, Louisiana; No. 3, North Carolina; No. 4, Maryland; No. 5, Missouri; No. 6, Texas; No. 7, Virginia; No. 8, Idaho; No. 9, Oregon; No. 10, Wyoming; No. 11, New Jersey (supply exhausted); No. 12, Washington; No. 13, Indiana; No. 14, Minnesota; No. 15, Montana; No. 16, Illinois; No. 17, Ohio; No. 18, Connecticut; No. 19, Massachusetts; No. 20, New Hampshire; No. 21, Colorado; No. 22, West Virginia; No. 23, New York; No. 24, Vermont. Requests for leaflets should always identify the particular ones desired by giving their respective numbers, as here indicated, in addition to mentioning the names of the States. The laws of other States, so far as they have been compiled, are available only for loan, through the Forest Service Library, Washington, D. C.

Whenever this leaflet or any other comprising a part of this compilation of State Forestry Laws is reprinted for local use, please append thereto the following: NOTE.—This arrangement of the Forestry Laws of ..... is reprinted from State Forestry Laws, compiled and issued in leaflet form by the Forest Service, U. S. Department of Agriculture. Similar leaflets for other States, so far as available, and information concerning forestry laws generally will be furnished upon request addressed to The Forester, Forest Service, Washington, D. C.

## PURPOSE OF COMPILATION.

The compilation of State Forestry Laws, of which this leaflet is a part, aims to meet a manifest need of the times for a work of reference by means of which the basic legislation underlying forestry administration in the several States, and the various activities thereunder, may readily be studied and compared. To facilitate this purpose of comparing the legislation of one State with another, the Synopses introducing the laws in the several leaflets are classified and arranged to take up in a definite order the various subjects usually covered in such legislation. To further extend this educational purpose, only such of the State laws as bear more or less directly upon the practice of forestry are here compiled, to the exclusion of all other timber and tree laws, all forest-insect and fungus-control laws, except general provisions, and all transitory provisions of law, including those concerning annual or biennial appropriations. For the same reason, those finer points of reference proper only to a legal or administrative manual have also been omitted. Succeeding issues of each State leaflet, to form a separate series for each State, will serve to keep these fundamental laws up to date and free from encumbrance by obsolete provisions.

## SYNOPSIS OF LAWS.

### GENERAL FORESTRY ORGANIZATION AND ACTIVITIES.

#### State Board of Forestry.

Is appointed by the governor, and consists of the State forester, who is a technically trained forester (No. 2), and four additional members, one of whom is familiar with the timber industry, one with the live stock industry, one with the grain and hay industry, and one who is a member at large; none of whom receives compensation, except the State forester, but each is reimbursed for actual traveling expenses. No. 1. (*See also note 1, on p. 22.*)

Prescribes rules and regulations for its government. No. 1.

Meets at such times and places as it sees fit. No. 1.

Supervises and directs all matters of State forest policy, management and protection. No. 1.

Directs disposal of the forestry fund for purposes of forest protection, management and replacement. No. 20.

#### State Forester.

Is a technically trained forester, certified to by either the Secretary of the United States Department of Agriculture or the Department of Forestry of the State University, and is appointed by the governor. No. 2.

Holds office at the pleasure of the governor. No. 2.

Receives a salary of \$3,000 per annum. No. 22.

Is paid traveling and field expenses. No. 2.

Maintains headquarters at the State capitol. No. 2.

Is a member of and acts as secretary to, and executive officer of, the State board of forestry. No. 2.

Appoints the deputy and assistant foresters, and assigns them duties, under approval of the board. No. 22.

Manages the State forest nursery; and purchases and distributes, at cost, nursery stock and seed, for public planting and reforestation. Nos. 23; 24.

#### Cooperates:

With counties and municipalities, under approval of the State board of control (*see note 2, par. 4, on p. 22*) whenever they appropriate for the protection and forest management of any lands over which they have jurisdiction, or for reforestation or afforestation on lands therein, under agreements, based on such terms as the State forester may deem advisable. No. 39 (b).

With counties, towns, corporations, and individuals, without approval of the board of control (*see note 2, par. 4, on p. 22*), in preparing plans for the protection, management and replacement of trees, woodlots, and timber tracts, under agreement that the parties assisted pay at least the field expenses of the men who prepare the plans. No. 4.

#### Publishes and distributes:

Forestry data. No. 2.

Abstracts of State forest laws with rules and regulations and list of firewardens, under approval of the State board of forestry. No. 5.

Furnishes to firewardens notices for posting, calling attention to forest trespass and fire laws, and their penalties. No. 5.

Makes report and recommendations, annually. No. 2.



**Deputy State Forester and Assistant State Forester.**

Are appointed by the State forester, at the respective salaries of \$2,400 and \$1,600. No. 22.

Receive traveling and field expenses. No. 2.

Act under direction of the State forester. No. 7.

Deputy forester also exercises powers and duties of the State forester when necessary. No. 22.

**State Board of Control.** (*See note 12, on p. 23.*)

Approves cooperative agreements by the State forester with counties and municipalities concerning forestation, reforestation, protection, and general forest management. No. 39 (b).

**State Forest Nursery.**

Supplies nursery stock for reforesting public lands, planting of trees along public streets and highways, and the beautifying of parks and school grounds. No. 23.

Is located upon State land. Nos. 23; 25.

Is managed by the State forester. Nos. 23; 24.

Has the benefit of a continuing appropriation of \$14,000, until expended. No. 26.

**Cooperation.**

Is authorized:

With counties and municipalities, under approval of the State board of control (*see note 2, par. 4, on p. 22*) whenever they appropriate for the protection and forest management of any lands over which they have jurisdiction, or for reforestation or afforestation on lands therein, under agreements, based on such terms as the State forester may deem advisable. No. 39 (b).

With counties, towns, corporations, and individuals, without approval of the board of control (*see note 2,*

*par. 4, on p. 22*) in preparing plans for the protection, management, and replacement of trees, woodlots, and timber tracts, under agreement that the parties assisted pay at least the field expenses of the men who prepare the plans. No. 4.

NOTE.—County boards of supervisors are empowered to make appropriations for the purpose of aiding the State and Federal authorities in forestry work. Nos. 21; 56.

**Investigation and Education.**

Are promoted by the collection and publication of forestry data. Nos. 2; 5.

**Publications.**

Are issued by the State forester in the form:

Of individual publications furnishing such information concerning forestry as he may deem advisable. No. 2.

Of annual reports to the governor, on the progress and condition of State forest work, recommending plans for improving the State system of forest protection, management, and replacement. No. 2.

Of an abstract of State forest laws with rules and regulations, and list of fire wardens, under approval of the board. No. 5.

Of fire and other warning notices. No. 5.

**Income from Sources Other Than Annual or Biennial Appropriations.** (*See note 4, on p. 22.*)

Is derived from:

The forestry fund (created by moneys received as penalties under ch. 264, L. 1905). No. 20.

A continuing appropriation of \$14,000 for State forest nursery work, until expended. No. 26.

A continuing appropriation of \$25,000 for forest fire prevention and suppression, until expended. No. 47.

**FIRE ORGANIZATION AND ACTIVITIES.****STATE PROTECTIVE ORGANIZATION.****State Board of Forestry.**

Organizes and directs operation of the fire-protective system, by and through the State forester, as follows:

Makes and enforces rules and regulations therefor. No. 38.

Divides the State into the necessary number of fire districts. No. 38.

Appoints district fire rangers. No. 38.

Provides necessary implements and apparatus for fire prevention and fire fighting. No. 38.

Organizes fire companies. No. 38.

Establishes observation stations in fire districts, and employs attendants. No. 38.

Constructs and maintains telephone lines and provides other needed means of communication. No. 38.

Approves:

Rules by the State forester for the deputy forester and assistant forester. No. 7.

Abstract of State forest laws, and list of firewardens published by the State forester. No. 5.

Prescribes rules and regulations for burning brush, slash, stumps, grass, etc., on lands other than lands within municipalities. No. 57 (3), (7).

Abates public nuisances resulting from failure of owners to properly protect forest land. No. 19.

**State Forester.**

Takes required action, under supervision of the board, to prevent and extinguish forest, brush, and grass fires. No. 2.

Organizes and directs operation of the fire-protective system, and enforces the rules and regulations of the board. Nos. 38-44. (*See also No. 57, (3), (7), concerning regulations governing fires in the open.*)

Divides the State into the necessary number of fire districts, Nos. 6; 38 (b); and appoints a district fire ranger for each district. No. 38 (c).

Creates a separate fire district, consisting of any county or combination of less than four counties, upon request therefor from the county board or boards of supervisors, and on the condition that such special fire district shall pay the cost of maintaining its district firewardens. No. 6. (*See also note 2, par. 4, on p. 22.*)

Appoints, as voluntary firewardens, in such number and localities as he deems advisable, public-spirited citizens, and also the supervisors and rangers on the National Forests within the State, whenever they formally accept the duties and responsibilities of the position. No. 8.

Investigates and prosecutes paid firewardens when they fail to perform their duties. No. 9.

Establishes a fire patrol:

Upon his own initiative, through the firewardens and at the expense of the county, in times of particular fire danger, and at such places in brush or forest land as the public interest may require. No. 11.

Upon written request by counties, corporations, or individuals, on their forest lands, and at their expense. No. 11.

Designates privately maintained patrolmen as special fire rangers, with all the rights and powers of district fire rangers. No. 40; and "District Fire Rangers," on p. 5.

Provides necessary implements and apparatus for fire prevention and fire fighting. No. 38.

Organizes fire companies. No. 38.

Establishes observation stations in fire districts, and employs attendants. No. 38.

Constructs and maintains telephone lines and provides other needed means of communication. No. 38.

Takes required action to abate public nuisances caused by failure of owners to adequately protect forest lands. No. 19.

Impresses assistance for fire fighting, and authorizes district fire rangers, special fire rangers, and voluntary firewardens to take such action. No. 41.

Sets backfires, without permission from the owner, on lands other than those within any municipal corporation. No. 57 (1), (7). (*See also Nos. 14; 16.*)

Enforces laws pertaining to forest and brush-covered lands, and prosecutes violators thereof. No. 2.

Has powers of a peace officer to make arrests without warrant for violations of any State or Federal forest laws

under the provisions in section 9, chapter 264, Laws 1905 (No. 9); and has the same powers under section 5, chapter 176, Laws 1919, for violations of any State, county, or Federal fire laws. No. 42. (*See also note 2, par. 3, on p. 22.*)

Is not liable to civil action for trespass committed in the discharge of his duties. No. 42.

Requests action against district attorneys who fail to prosecute offenders for violation of the provisions in chapter 264, Laws 1905. No. 12.

Cooperates in fire protection operations:

*Upon a basis of mutual expenditures—*

With the Federal Government. Nos. 39 (a); 47.

With counties and municipalities, whenever they appropriate for such work on any lands therein, or over which they have jurisdiction. Nos. 39 (b); 47.

With persons, firms, associations, and corporations. Nos. 39 (c); 47.

With owners of land, or any organization, when they maintain, under cooperative agreements, a forest fire patrol designated by the State forester as special forest ranger. Nos. 40; 39; 47.

With various agencies for work in certain limited areas upon condition of advance deposits by the collaborating parties. Nos. 48; 49; 50; 51.

NOTE.—Cooperation in all of the above cases is required to be under approval of the State board of control, as shown in the note under the heading, "Cooperation," on p. 7.

*Without cost to the State—*

With counties, by creating a separate fire district consisting of any county or combination of less than four counties, upon request therefor from the county or counties, and on condition that such special fire district shall pay the cost of maintaining its district firewardens. No. 6. (*See also note 2, par. 4, on p. 22.*)

With counties and private agencies by the appointment of citizens to act as voluntary firewardens under his direction, and to receive payment for their services from such counties or private sources. No. 8. (*See also note 2, par. 4, on p. 22.*)

With counties, corporations, and individuals, by establishing a fire patrol on their forest lands, upon their request, and at their expense. No. 11. (*See also note 2, par. 4, on p. 22.*)

With counties, towns, corporations, and individuals in preparing plans for the protection of trees, woodlots, and timber tracts at their cost as regards, at least, field expenses. No. 4. (*See also note 2, par. 4, on p. 22.*)

With owners of land, or any organization, when they maintain, wholly at their expense, a forest fire patrolman, designated by the State forester as special fire ranger. No. 40.



Furnishes forest fire notices, and notices of forest fire and trespass laws. No. 5.

Publishes and distributes abstract of State forest laws with rules and regulations and list of firewardens, under approval of the State board of forestry. No. 5.

#### **Deputy State Forester and Assistant State Forester.**

Act under direction of the State forester. No. 7.

Take prompt measures to prevent and extinguish forest fires, and keep records thereof. No. 7.

Impress assistance for fire fighting; and authorize district fire rangers, special fire rangers, and voluntary firewardens to take such action. No. 41.

Set backfires, without permission from the owner, on lands other than lands within any municipal corporation. Nos. 57 (1), (7); 14; 16.

Perform such other duties as may be directed by the State forester. No. 7.

Have powers of peace officers to make arrests for violation of any State, county, or Federal fire laws. No. 42. (*See also note 2, par. 3, on p. 22.*)

Are not liable to civil action for trespass committed in the discharge of their duties. No. 42.

Deputy forester also exercises powers and duties of the State forester when necessary. No. 22.

#### **District Fire Rangers.**

Are appointed by the board, one for each fire district, to serve during the seasons when fires are liable to occur. No. 38.

Receive a salary of not to exceed \$150 per month, and necessary expenses. No. 38.

Have charge, under direction of the State forester, of the fire-fighting service and men in their respective districts. No. 38.

Prevent and extinguish forest fires in their respective districts, and perform such other duties as may be required by the State forester. No. 38.

Impress assistance for fire fighting, under authority from the State forester, deputy or assistant State forester. No. 41.

Set backfires, without permission from the owner, on lands other than lands within any municipal corporation. No. 57 (1), (7). (*See also Nos. 14; 16.*)

Have powers of peace officers to arrest, without warrant, violators of State, county, or Federal fire laws. No. 42. (*See also note 2, par. 3, on p. 22.*)

Are not liable to civil action for trespass committed in the discharge of their duties. No. 42.

#### **Firewardens.**

##### *Voluntary firewardens—*

Are appointed by the State forester. No. 8.

Receive compensation from counties or private sources. No. 8.

Are under the immediate direction of the several district fire rangers. No. 38 (c).

Take prompt action to extinguish fires. No. 8.

Have authority under the law to call upon citizens, between ages of 16 and 50 years, to assist in extinguishing fires (*see note 2, par. 1, on p. 22*). No. 10; and are also authorized by the State forester, and the deputy and assistant State foresters to impress assistance for such purpose. No. 41.

Set backfires, without permission from the owner, on lands other than those within any municipal corporation. No. 57 (1), (7). (*See also Nos. 14; 16.*)

Serve as fire patrol under direction of the State forester. No. 11.

Report all fires, and violations of forest laws, and assist in apprehending and convicting offenders. Nos. 8; 9.

Have powers of peace officers to make arrests without warrant for violations of any State or Federal forest laws under the provisions in section 9, chapter 264, Laws of 1905. No. 9. (*See also note 2, par. 3, on p. 22.*)

Are not liable to civil action for trespass committed in the discharge of their duties. No. 9.

Issue permits for burning brush, slash, etc., or for blasting or setting off fireworks, on lands other than lands within municipalities. No. 57 (3), (7). (*See also Nos. 16; 18; and note 11, on p. 23.*)

Serve notices under brush and slash disposal requirements. No. 19.

Post forest-fire notices, and notices of forest-fire and trespass laws. No. 5.

Perform such other duties as the State forester may direct. No. 8.

Are subject, when serving as paid firewardens, to criminal prosecution for failure to perform duties prescribed in chapter 264, Laws 1905, and to a fine of not less than \$20, nor more than \$250, or imprisonment for not less than 10 days nor more than three months, or both such fine and imprisonment (No. 9); which fines go into the State treasury to the credit of the forestry fund. No. 20.

##### *District firewardens—*

NOTE.—No provision concerning authority or duties of such officers appears to have been made other than that "such special district [a district created upon request of a county or a combination of less than four counties] shall pay the cost of maintaining its district fire wardens." No. 6.

*Deputy firewardens and special firewardens—*

NOTE.—No provision concerning the authority or duties of such officers appears to have been made other than that the service of notices under the brush and slash disposal requirements may be made by "any firewarden, deputy firewarden or special firewarden." No. 19.

**National Forest Officers (Supervisors and Rangers within the State).**

Are given State police powers through appointment as voluntary firewardens by the State forester; and, as such have all the powers given to firewardens by the act contained in chapter 264, Laws 1905. No. 8.

**Patrolmen.**

Are firewardens, selected by the State forester to do patrol duty, in times and localities of particular fire danger, at the expense of the county. No. 11.

Are also assigned for such duty by the State forester, upon receipt of written request from counties, corporations, or individuals, for patrol on their forest land, at their expense. No. 11.

May be designated special fire rangers, by the State forester, when maintained by landowners or organizations, and be given the rights and powers of district fire rangers as regards their patrol areas and adjacent lands; and, as such, they are paid either wholly by such owners or organizations, or under cooperative agreements between such parties and the State forester. No. 40; and "District Fire Rangers," on p. 5.

**Special Fire Rangers.**

Patrolmen may be so designated by the State forester when privately maintained, by owners of lands, or any organization, as fire patrolmen. No. 40.

Are given all the rights and powers of district fire rangers as regards their patrol areas and adjacent lands. No. 40; and "District Fire Rangers," on p. 5.

Are paid either wholly by the parties employing them, or under cooperative agreement between such parties and the State forester. No. 40.

**Justices of the Peace, Constables, and Road Overseers.**

Order citizens to assist in extinguishing fires. No. 55.

Set backfires, without permission from the owner, on lands other than those within any municipal corporation. No. 57 (1), (7). (See also Nos. 14; 16.)

**Fire-Fighting Laborers.**

Are impressed:

By the State forester, and deputy and assistant State foresters, and also by district fire rangers, special fire rangers and voluntary firewardens, under authority from said administrative officers; subject, in case of failure to comply with summons, to a penalty of a fine

of not less than \$50, nor more than \$500, and, in event of refusal to pay such fine, imprisonment in the county jail for a period of not to exceed one day for every \$2 of the fine imposed, or to both such fine and imprisonment. Nos. 41; 44.

By firewardens, in the exercise of their authority as such officers; in which event, refusal to comply with such summons, without good and sufficient reasons, subjects the offender to a fine of not less than \$10, nor more than \$500, or imprisonment in the county jail for not less than 15 days, nor more than 6 months, or to both such fine and imprisonment. (See note 2, par. 1, on p. 22.) Nos. 10; 57, penalty clause, (5). (See also note 6 on p. 22.)

By justices of the peace, constables, and road overseers. No. 55. (See also note 6 on p. 22.)

Receive compensation at the rate of 25 cents per hour of service actually rendered, in response to summons from the State forester, or deputy or assistant State forester, or from a district fire ranger, special fire ranger, or voluntary firewarden, under authority from any one of said administrative officers. No. 41. (See also note 6 on p. 22.)

Set backfires, without permission from the owner, on lands other than those within any municipal corporation. No. 57 (1), (7). (See also Nos. 14; 16.)

**State Board of Control.** (See note 12, on p. 23.)

Approves cooperative agreements by the State forester for forest fire protection work, under certain conditions, and also makes contracts direct for such work, in various localities, as shown under the heading, "Cooperation." (See immediately below.)

**Cooperation.**

Is authorized:

By the State forester.

*Upon a basis of mutual expenditures—*

With the Federal Government for maintaining a patrol system for the prevention and suppression of fires upon timber, brush, grass, or other lands containing inflammable material. Nos. 39 (a); 47.

With counties and municipalities whenever they appropriate for the prevention or suppression of forest fires on any lands therein or over which they have jurisdiction. Nos. 39 (b); 47.

With persons, firms, associations, and corporations, owning or controlling forest, brush, grass, or grain lands, for the prevention and suppression of forest fires. Nos. 39 (c); 47.

With owners of lands, or any organization, when they maintain, under agreement, a forest fire patrol, designated by the State forester as special fire ranger. Nos. 40; 39; 47.



With the San Dimas Fruit Exchange, the county of Los Angeles, or any individual or corporation, or any or all of them, for prevention and extinguishment of forest fires, and constructing and maintaining fire trails and fire breaks in the San Dimas Canyon in the San Gabriel Mountains, Calif., and adjacent canyons. Nos. 48; 49.

With the Azusa and Covina Irrigation companies, the county of Los Angeles, or any individual, or corporation, or any or all of them, for prevention and extinguishment of forest fires, and constructing and maintaining fire trails and fire breaks in the San Gabriel Canyon in the San Gabriel Mountains, Calif., and the mountains adjacent thereto. Nos. 50; 51.

**NOTE.** Since the cooperation contemplated in all of the above cases involves the paying out of money by the State for purposes other than the fixed operating charges of the State forester's department, approval of the agreements by the State board of control is requisite. See also the specific provision made to this end in Laws 1919, chapter 176, section 2 (No. 39), and in Laws 1919, chapter 414 (No. 47).

Cooperation in all cases under the two last provisions, above (Nos. 48; 49, and 50; 51), is further conditioned upon advance deposits, in the State treasury by the collaborating parties, of amounts equaling the State's contributions.

*Without cost to the State—*

With counties, by creating a separate fire district containing any county or combination of less than four counties, upon request therefor from the county or counties, and on condition that such special fire district shall pay the cost of maintaining its district firewardens. No. 6. (*See also note 2, par. 4, on p. 22.*)

With counties and private agencies by the appointment of citizens to act as voluntary fire wardens under the direction of the State forester, and to receive payment for their services from such counties or private sources. No. 8. (*See also note 2, par. 4, on p. 22.*)

With counties, corporations, and individuals, by establishing a fire patrol on their forest lands, upon their request, and at their expense. No. 11. (*See also note 2, par. 4, on p. 22.*)

With counties, towns, corporations, and individuals in preparing plans for the protection of trees, woodlots, and timber tracts, at their cost as regards at least field expenses. No. 4. (*See also note 2, par. 4, on p. 22.*)

With owners of lands, or any organization, when they maintain, wholly at their own expense, a forest fire patrol designated by the State forester as special fire ranger. No. 40. (*See also note 2, par. 4, on p. 22.*)

By the State board of control (*see note 12 on p. 23*).

With the Federal Government, for constructing and maintaining fire lanes and fire trails to protect the watershed of the San Bernardino Mountains, Calif. Nos. 53; 54.

With the San Antonio Fruit Exchange, in connection with the San Antonio Water Co. and the counties of San Bernardino and Los Angeles, for preventing forest fires, and the construction and maintaining of fire trails and fire breaks in the San Antonio Canyon, in the San Gabriel Mountains, Calif., and the canyons adjacent thereto. Nos. 45; 46.

With the public corporation known as the Tamalpais forest fire district, in Marin County, for the purpose of preventing forest fires and the construction and maintenance of fire trails and fire breaks within that district. No. 52.

#### **Distribution of Costs of Fire Protection.**

Federal Government pays its proportionate share for protective operations, under cooperative agreements with the State. Nos. 39 (a); 47; 53 and 54.

State pays its proportionate share for protective operations under cooperative agreements:

With the Federal Government. Nos. 39 (a); 47; 53 and 54.

With counties, municipalities, persons, firms, associations, and corporations. Nos. 39 (b) (c); 47; 45 and 46; 48 and 49; 50 and 51; 52.

Municipalities pay a proportionate share for protective operations under cooperative agreements with the State. Nos. 39 (b); 47.

Counties pay:

A proportionate share for protective operations under cooperative agreements with the State. Nos. 39 (b); 47; 45 and 46; 48 and 49; 50 and 51.

The cost of fire patrol maintained by the State forester. No. 11.

Voluntary firewardens for services rendered in their interests. No. 8.

District firewardens of duly constituted special fire districts. No. 6. (*See also note 2, par. 4, on p. 22.*)

**NOTE.**—County boards of supervisors are empowered to make appropriations, annually, for the purpose of protecting the forest, brush, and grass lands within their respective counties. Nos. 21; 56.

Persons, firms, associations, and corporations pay:

A proportionate share for protective operations, under cooperative agreements with the State. No. 39 (c); 47; 45 and 46; 48 and 49; 50 and 51; 52.

The cost of fire patrol established by the State forester. No. 11.

Voluntary firewardens for services rendered in their interest. No. 8.

Costs incurred by the State in abating public nuisances caused by failure on their part to properly clean-up forest lands owned by them. No. 19.

**LOCAL PROTECTIVE ORGANIZATION.****Tamalpais Forest Fire District.**

Is established in Marin County and boundaries defined. No. 27.

May be enlarge through required action being taken by its board of trustees. No. 33.

May be reduced in area through required acting being taken by the board of supervisors of the county. No. 33.

May be abolished upon the vote of two-thirds of the qualified electors thereof, at an election called either by its board of trustees, or by petition of 25 per cent of the registered voters therein. No. 34.

Is financed by contributions from the State and such of its political corporations as may be landholders therein, and by a property tax. Nos. 31; 32.

Is governed by a board of trustees, the members of which are appointed: One from the district at large, by the county supervisors, and one from each of the municipalities in the district, by the governing boards thereof (*see note 7 on p. 23*); and serve terms of two years each without compensation, but are allowed traveling expenses (Nos. 28; 29); which board:

Provides for meetings and establishes rules for its proceedings. No. 29.

Takes necessary action for prevention and extinguishment of forest, brush, and grass fires within the district. No. 30.

Purchases supplies and materials and employs such labor or skilled service as may be needed therefor. No. 30.

Constructs, maintains, and keeps clear necessary fire roads or trails and maintains hydrant or other fire-fighting apparatus within or adjacent to the district. No. 30.

Acquires by purchase, condemnation, or otherwise, in the name of the district, needed lands, rights of way, easements, or property or material. No. 30.

Makes contracts to indemnify owners for causing injury to their property; and, generally, to take such further action as may be incident to its powers. No. 30.

Procures and accepts, annually or otherwise, proposals as to the amount to be contributed by the State and such political corporations as may be interested landholders therein, in consideration of the payments thereunder binding the board by direct contract to take over the supervision and concurrent control of the lands held by each, so far as concerns fire-protection work. No. 32. (*See also note 8 on p. 23*).

Furnishes annually to the supervisors and auditor of Marin County, an estimate as to the amount of money needed for the district during the next fiscal year. No. 31.

Issues warrants for withdrawal, from the county treasury, of funds needed for the district. No. 31.

Takes necessary steps to include additional lands in the district upon receipt of a written petition therefor. No. 33.

Calls an election for the purpose of determining the advisability of abolishing the district. No. 34.

NOTE.—In the event of any portion of the act which contains the above provisions (ch. 560, L. 1917) being declared unconstitutional, such action would not affect the validity of the remaining portions of the act. No. 37.

**Various Restricted Areas in California.**

Are protected by either local agencies or the Federal government in cooperation with the State, which localities are as follows:

The San Antonio Canyon in the San Gabriel Mountains, Calif., and the canyons adjacent thereto. Nos. 45; 46.

The San Dimas Canyon in the San Gabriel Mountains, Calif., and the canyons adjacent thereto. Nos. 48; 49.  
The San Gabriel Canyon, in the San Gabriel Mountains, Calif., and the mountains adjacent thereto. Nos. 50; 51.

The watershed of the San Bernardino Mountains, in California. Nos. 53; 54.

**COMPULSORY RESPONSIBILITY IMPOSED UPON LANDOWNERS AND OTHERS FOR PROTECTION OF FOREST LANDS.****Public Nuisance.**

Inadequately protected forest areas which are covered, wholly or in part, with inflammable debris, and are so located as to endanger life or property, are declared by law a public nuisance, and the board is required:

To notify owners of forest areas of proposed inspection thereof to ascertain existing conditions. No. 19.

To make inspection; in which the owners are permitted to participate. No. 19.

To notify owners to abate nuisances. No. 19.

To take required action to abate the same, in event of failure of owner to do so. No. 19.

To file claim for reimbursement of the State for all costs incurred in abating nuisances; which costs constitute a lien on the land, and are recovered through enforcement procedure. No. 19.



**Brush and Slash Disposal.**

Is required to be accompanied with proper precautions to prevent the escape of fire, whenever it is effected by means of burning. Nos. 16; 57, penalty clause (3), (7).

Is compulsory to whatever extent the "Public Nuisance" provision (above) is enforced in connection with such debris. No. 19.

**Kindling Fires in the Open.**

The following acts are prohibited on lands other than lands within any municipal corporation:

Setting fire to any forest, brush, or other inflammable vegetation on lands of another without permission of the owner, back-firing excepted. No. 57, penalty clause, (1), (7). (*See also Nos. 14; 16.*)

Allowing fire to escape from control, or to spread to lands of another. No. 57, penalty clause, (2), (7). (*See also No. 14.*)

Burning brush, stumps, logs, rubbish, fallen timbers, fallows, grass or stubble, or blasting or setting off fireworks, whether on one's own land or that of another, without taking proper precautions to prevent the escape of fire. No. 57, penalty clause, (3), (7). (*See also No. 16.*)

Leaving camp fires burning or allowing them to spread. No. 57, penalty clause, (6), (7). (*See also No. 15.*)

Willful or negligent violation of the above restrictions in No. 57 subjects the offender to criminal prosecution, and is punishable by a fine of not less than \$50, nor more than \$500, or imprisonment for not less than 15 days, nor more than 6 months, or both such fine and imprisonment; all of which fines go to the county. No. 57, penalty clause.

NOTE.—The above requirements in No. 57 (Penal Code, sec. 384) are, to a certain extent, similar to certain of the requirements previously enacted in sections 14; 15; 16, chapter 264, Laws 1905 (*see Nos. 14; 15; 16*). The attorney general for California is, however, of the opinion that the later reenactment (Penal Code, sec. 384) does not repeal said earlier one, but that, should any cases arise which are not covered by both enactments, the one under which they fall would be operative and may be applied; and that, "In cases to which both enactments might equally apply the latter enactment and the penalty imposed thereby would, of course, prevail." (*See note 2, par. 2, on p. 22.*)

Injury or destruction of property through such fires subjects the offender to civil action also, as follows:

For double damages when the fires are the result of willfulness, malice, or negligence. No. 18.

For actual injury sustained, determined by the value of the property injured, or destroyed, and the detriment to the land and vegetation, when fires are caused, or escape accidentally. No. 18.

For costs of fire fighting, in all cases. No. 18.

**Locomotive and Other Engines.**

Are required:

To use fire-protective devices on smokestacks, ash pans, fire boxes, and other parts, when operated in or near forest, brush, grass, grain, or stubble lands, other than lands within any municipal corporation, and to take all reasonable precautions to prevent causing fires. No. 57, penalty clause, (4), (7). (*See also No. 17.*)

To keep ready for use (when operating on lands other than lands within any municipal corporation) on each combined harvester, header, or stationary threshing machine, or hay press, two suitable chemical fire extinguishers, approved by the underwriters' laboratories. No. 57, penalty clause, (4a), (7). (*See also No. 17.*)

To maintain an effective spark-arresting and burning carbon-arresting device, attached to the exhaust, on all gas tractors, oil-burning engines, gas-propelled harvesting machine or auto trucks, when operated or moved in or near any grain or grass lands, other than lands within any municipal corporation. No. 57, penalty clause, (4b), (7). (*See also No. 17.*)

Willful or negligent violation of the above requirements in No. 57 subjects the offender to criminal prosecution, and is punishable by a fine of not less than \$50, nor more than \$500, or imprisonment for not less than 15 days, nor more than 6 months, or both such fine and imprisonment; all of which fines go to the county. No. 57, penalty clause.

NOTE.—The above requirements in No. 57 (Penal Code, sec. 384) are, to a certain extent, similar to certain of the requirements previously enacted in section 17, chapter 264, Laws 1905 (*see No. 17*). The attorney general for California is, however, of the opinion that the later reenactment (by Penal Code, sec. 384) does not repeal the earlier one, but that, should any cases arise which are not covered by both enactments, the one under which they fall would be operative and may be applied; and that "In cases to which both enactments might equally apply the latter enactment and the penalty imposed thereby would, of course, prevail." (*See note 2, par. 2, on p. 22.*)

Injury or destruction of property by fires, caused through violation of the above requirements, subjects the offender to civil action also, as follows:

For double damages when fires are the result of willfulness, malice, or negligence. No. 18.

For actual injury sustained, determined by the value of the property injured or destroyed, and the detriment to the land and vegetation, when fires are caused, or escape accidentally. No. 18.

For costs of fire fighting in all cases. No. 18.



**LANDOWNERS' RESPONSIBILITIES.****Require owners:**

To abate, upon receipt of notice from the board, public nuisances caused by failure on their part to properly clean up forest areas. (See "*Public Nuisance*," on p. 8.)

To take proper precautions to prevent the escape of fire in burning brush, grass, stumps, logs, etc. (See "*Kindling Fires in the Open*," on p. 9.)

**FIRE AND OTHER WARNING NOTICES.****Are required:**

To be printed on cloth, in large letters, calling attention to the danger from forest fires, and to forest fire and trespass laws, and their penalties. No. 5.

To be furnished by the State forester, and posted by the firewardens in conspicuous places along highways in brush and forest-covered country, along streams and lakes frequented by tourists, hunters, or fishermen, and at camping sites and post offices in the forested region. No. 5.

Injury, destruction, or removal thereof subjects the offender to criminal prosecution, and is punishable by a fine of not less than \$15, nor more than \$100, or imprisonment for not less than 10 days, nor more than 3 months, or by both such fine and imprisonment; all of which fines are paid into the State treasury to the credit of the forestry fund. Nos. 13; 20.

**PUBLIC FORESTS.****STATE FORESTS.**

Are in the charge of the State board of forestry (No. 3); and are under the immediate care of the State forester,

who directs their protection and improvement. No. 2. See also No. 20, concerning funds made available for forest protection, management, and replacement.

**LEGAL PROCEDURE.****Criminal Liability.****Is incurred:**

Through willful or negligent violation of requirements in connection with the use of locomotive and other engines, in or near any forest, brush, grass, grain, or stubble land; and subjects the offender to fine or imprisonment, or both. (See "*Locomotive and Other Engines*," on p. 9.)

Through willful or negligent violation of restrictions prescribed in connection with kindling fires in the open; and subjects the offender to fine or imprisonment, or both, as shown under the heading, "*Kindling Fires in the Open*," on p. 9.

Through failure to obey summons to assist in suppressing forest fires; and subjects the offender to fine or imprisonment, or both, as shown under the heading, "*Fire-Fighting Laborers*," on p. 6.

Through violation of any of the provisions for fire prevention and suppression in the act contained in chapter 176, Laws 1919; and subjects the offender to a fine of not less than \$50, nor more than \$500, and, in event of refusal to pay fine, to confinement in the county jail for a period not to exceed one day for every \$2 of the fine imposed; or to both such fine and imprisonment. No. 44.

Through failure on the part of any paid firewarden to comply with the duties specified in the act contained in chapter 264, Laws 1905; and is punishable by a fine of not less than \$20, nor more than \$250, or imprisonment for not less than 10 days nor more than 3 months, or both such fine and imprisonment. No. 9.

Through failure on the part of any district attorney or magistrate to prosecute violators of the act contained

in chapter 264, Laws 1905; and is punishable by a fine of not less than \$100, nor more than \$1,000. No. 12.

Through injury or removal of any fire or other warning notice; and is punishable by a fine of not less than \$15, nor more than \$100, or imprisonment in the county jail for not less than 10 days, nor more than 3 months, or both such fine and imprisonment. No. 13.

**Civil Liability.****Is incurred:**

Through injury or destruction of property by fires resulting from violation of requirements prescribed in connection with the use of locomotive and other engines, in or near any forest, brush, grass, grain, or stubble land; and subjects the offenders to action, as shown under the heading, "*Locomotive and Other Engines*," on p. 9.

Through violation of restrictions prescribed in connection with kindling fires in the open; and subjects the offenders to action, as shown under the heading, "*Kindling Fires in the Open*," on p. 9.

Through failure, on the part of any owner of an inadequately protected forest area constituting a public nuisance, to take required action to abate the same; and subjects the offender to payment of all costs of abatement incurred by the State, and secured through a lien on the land, as shown under the heading, "*Public Nuisance*," on p. 8.

Is not incurred for trespass committed in the discharge of duties by the following officers: State forester, deputy and assistant State foresters, district fire rangers, special fire rangers and firewardens. Nos. 42; 9.

**Institution of Proceedings for Violation of Forest and Fire Laws.**

State forester is charged with procuring the prosecution of violators. Nos. 2; 9; 12.

Firewardens assist in apprehending and convicting offenders (Nos. 8; 9); and are themselves, when serving as paid firewardens, subject to prosecution, under penalty of fine or imprisonment, or both, for failure to perform the duties assigned them in chapter 264, Laws 1905. No. 9.

State forester and firewardens have powers of peace officers to make arrests without warrant for violations of any State or Federal forest laws (No. 9); and the State forester, deputy and assistant State foresters, district fire

rangers, and special fire rangers have the same powers for violations of any State, county, or Federal fire laws. No. 42. (*See also note 2, par. 3, on p. 22.*)

District attorneys (county), and magistrates are required to cause the prosecution of violators with all due diligence, under penalty of a fine of not less than \$100, nor more than \$1,000; and the attorney general for the State is required to bring the necessary action in such cases, upon request of the State forester. No. 12.

**Moneys Received as Penalties in Prosecutions Under Chapter 264, Laws 1905.**

Are paid into the State treasury to the credit of the forestry fund. No. 20.

**TAXATION.**

NOTE.—There are no provisions of law by the State of California for the special classification and taxation of forested lands and lands to be forested, with a view to encouraging the practice of forestry by private owners.

**TEXT OF LAWS.**

**No. 1.** The governor shall appoint four persons, one of whom shall be familiar with the timber industry, one with the live stock industry, one with the grain and hay industry, and one at large, who together with the state forester, shall constitute the state board of forestry, which shall supervise and direct all matters of state forest policy, management and protection. Said board shall make rules and regulations for its government, and shall meet at such times and places as it sees fit. The members, except the state forester, shall receive no compensation for their services, but shall be paid actual traveling expenses which may be incurred in the performance of their official duties, which shall be paid out of the fund appropriated for the support of the state board of forestry. [L. 1905, ch. 264, sec. 1; L. 1919, ch. 544, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1216, sec. 1.]

**No. 2.** There shall be a state forester, who shall be a civil executive officer, and who shall be a technically trained forester, appointed by the governor to hold office at the pleasure of the appointing power; and whether any candidate for the position is a technically trained forester shall be determined by certificate from the Secretary of the United States Department of Agriculture, or from the Department of Forestry of the State University after such department is established. \* \* \* He shall maintain headquarters at the state capitol in an office provided by the secretary of state, and shall be allowed necessary office and contingent expenses. He and his assistants shall be paid reasonable traveling and field expenses which may be incurred in the necessary performance of their official duties. He shall act as secretary of the state board of forestry. He shall, under the supervision of the state board of forestry, execute all matters pertaining to forestry within the jurisdiction of the state; have charge of all fire wardens in the state, and direct and aid them in their duties; direct

the protection and improvement of state parks and forests; collect data relative to forest destruction and conditions; take such action as is authorized by law to prevent and extinguish forest, brush, and grass fires; enforce all laws pertaining to forest and brush-covered land, and prosecute for any violation of such laws; cooperate with land owners, as described in section 4 of this act; and publish from time to time such information of forestry as he may deem wise. He shall prepare annually a report to the governor on the progress and condition of state forest work, and recommend therein plans for improving the state system of forest protection, management, and replacement. [L. 1905, ch. 264, sec. 2=Gen. Laws 1915 (Deering), act 1216, sec. 2.]

NOTE.—The provisions which are omitted in the above section concerned the salary of the State forester and the appointment and salaries of two assistant foresters, which provisions have been repealed, in effect, by chapter 393, Laws 1909 (since amended by ch. 238, L. 1917). (*See No. 22.*)

**No. 3.** The California Redwood Park and the Mt. Hamilton tract, together with all moneys heretofore or hereafter appropriated for the purchase of land for or care of said parks, tracts and stations, shall be in charge of the state board of forestry, said board to take the place of and forthwith shall have all the powers and duties now possessed in accordance with law by persons or commissions with regard to the state parks, tracts of land, and forest stations mentioned in this act, and also any forest or brush land which may hereafter become state property, or be placed definitely in the care of the state; and it is hereby further enacted that, if the government of the United States or any individual or corporation shall, at any time, donate or entrust to the State of California, for state park or state forest reserve purposes, any tract or tracts of wholly or partially wooded land, such tract or



tracts of land shall be administered at the expense of the state, as provided by law. [L. 1905, ch. 264, sec. 3=Gen. Laws 1915 (Deering), act 1216, sec. 3.] (*See also note 9, on p. 23.*)

**No. 4.** The state forester shall, upon request and whenever he deems it essential to the best interests of the people and the state, cooperate with counties, towns, corporations, and individuals in preparing plans for the protection, management and replacement of trees, woodlots and timber tracts, on consideration and under an agreement that the parties obtaining such assistance pay at least the field expenses of the men employed in preparing said plans. [L. 1905, ch. 264, sec. 4=Gen. Laws 1915 (Deering), act 1216, sec. 4.]

**No. 5.** The state forester shall prepare and print for public distribution an abstract of all the forest laws of California, together with such rules and regulations in accord therewith as he may deem necessary, and shall annually print and distribute a list of all fire wardens with their addresses, all such matter to be published with the approval of the state board of forestry. He shall also furnish notices, printed in large letters on cloth, calling attention to the danger from forest fires and to forest fire and trespass laws and their penalties. Such notices shall be posted by the fire wardens in conspicuous places along every highway in brush and forest-covered country, at frequent intervals along streams and lakes frequented by tourists, hunters or fishermen, at established camping sites, and in every post-office in the forested region. [L. 1905, ch. 264, sec. 5=Gen. Laws 1915 (Deering), act 1216, sec. 5.]

**No. 6.** The state forester shall divide the state into such number of fire districts as shall be deemed by him most necessary to the efficiency of his work; and, furthermore, any county, or combination of less than four counties, shall be made a separate fire district, upon request of the county board or boards of supervisors, in which case such special fire district shall pay the cost of maintaining its district fire warden. [L. 1905, ch. 264, sec. 6=Gen. Laws 1915 (Deering), act 1216, sec. 6.] (*See also No. 38. and note 2, par. 4, on p. 22.*)

**No. 7.** The duties of the assistant foresters [*deputy forester and assistant forester*] shall be to devote their entire time to state forest interests according to rules and directions to be determined by the state forester, with the approval of the state board of forestry. They shall take prompt measures to prevent and extinguish forest fires; keep a record of the cause, extent and damage of all forest fires in their respective districts, and perform such other duties as the state forester may direct. [L. 1905, ch. 264, sec. 7=Gen. Laws 1915 (Deering), act 1216, sec. 7.]

**No. 8.** The state forester shall appoint, in such number and localities as he deems wise, public-spirited citizens to act as voluntary fire-wardens, who may receive payment

for their services from the counties or from private sources. They shall promptly report all fires and take immediate and active steps toward their extinguishment, report any violation of the forest laws, assist in apprehending and convicting offenders, and perform such other duties as the state forester may direct. The supervisors and rangers on the federal forest reserve[s] within the state, whenever they formally accept the duties and responsibilities of fire-wardens, may be appointed as voluntary fire-wardens, and shall have all the powers given to fire-wardens by this act. [L. 1905, ch. 264, sec. 8=Gen. Laws 1915 (Deering), act 1216, sec. 8.]

**No. 9.** The state forester and all fire wardens shall have the powers of peace officers to make arrests without warrant, for violations of any state or federal forest laws, and no fire warden shall be liable to civil action for trespass committed in the discharge of his duties. Any fire warden who has information which would show, with reasonable certainty that any person had violated any provision of such forest laws, shall immediately take action against the offender, either by using his own powers as a peace officer or by making complaint before the proper magistrate, or by information to the proper district attorney, and shall obtain all possible evidence pertaining thereto. Failure on the part of any paid fire warden to comply with the duties prescribed by this act shall be a misdemeanor, and punishable by a fine of not less than twenty dollars, nor more than two hundred and fifty dollars, or imprisonment for not less than ten days nor more than three months, or both such fine and imprisonment, and the state forester is hereby authorized to investigate and prosecute such violations. [L. 1905, ch. 264, sec. 9=Gen. Laws 1915 (Deering), act 1216, sec. 9.] (*See also No. 42; and note 2, par. 3 on p. 22.*)

**No. 10.** All firewardens shall have authority to call upon able-bodied citizens between the ages of sixteen and fifty years, for assistance in putting out fires, and any such person who refuses to obey such summons, unless prevented by good and sufficient reasons, is guilty of a misdemeanor, [and must be fined in a sum not less than fifteen dollars, nor more than fifty dollars, or imprisonment in the county jail of the county in which such conviction shall be had, not less than ten days, nor more than thirty days, or both such fine and imprisonment; *provided* that no citizen shall be called upon to fight fire a total of more than five days in any one year.] [L. 1905, ch. 264, sec. 10=Gen. Laws 1915 (Deering), act 1216, sec. 10.]

NOTE.—See note 2, par. 1, on page 22, containing the opinion of the attorney general for California to the effect that the authority granted firewardens, by this section, to impress citizens is still operative; but that the penalty provision thereof (inclosed in [ ] above) is now superseded by the penalty provided in Penal Code, section 384; for which, see No. 57, penalty clause and subsection 5.

**No. 11.** In times and localities of particular fire danger the state forester may maintain a fire patrol through the



fire wardens, at such places in brush or forest land as the public interest may require, the expense of such patrol to be paid by the county in which such patrol is maintained; and, furthermore, he may, upon written request by counties, corporations or individuals, maintain a fire patrol on their forest lands, *provided*, that the expense of said patrol be paid by the party or parties requesting same. [L. 1905, ch. 264, sec. 11=Gen. Laws 1915 (Deering), act 1216, sec. 11.]

**No. 12.** Whenever an arrest shall have been made for violation of any provision of this act, or whenever any information of such violation shall have been lodged with him, the district attorney of the county in which the criminal act was committed must prosecute the offender or offenders with all diligence and energy. If any district attorney shall fail to comply with the provisions of this section he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars in the discretion of the court. Action against the district attorney shall be brought by the attorney-general in the name of the people of the state on the relation [*request?*] of the state forester. The penalties of this section shall apply to any magistrate, with proper authority, who refuses or neglects to cause the arrest and prosecution of any person or persons, when complaint, under oath, of violation, of any terms of this act has been lodged with him. [L. 1905, ch. 264, sec. 12=Gen. Laws 1915 (Deering), act 1216, sec. 12.]

**No. 13.** Any person who shall destroy, deface, remove or disfigure any sign, poster or warning notice posted under the provisions of this act shall be guilty of a misdemeanor and punishable, upon conviction, by a fine of not less than fifteen dollars nor more than one hundred dollars, or imprisonment in the county jail for a period of not less than ten days nor more than three months, or both such fine and imprisonment. [L. 1905, ch. 264, sec. 13=Gen. Laws 1915 (Deering), act 1216, sec. 13.]

**No. 14.** Every person, who willfully, maliciously or negligently sets on fire or causes or procures to be set on fire any woods, brush, prairies, grass, grain or stubble on any lands not his own, or allows the fire to escape from his own land, whereby any property of another is injured or destroyed, or accidentally sets any such fire or allows it to escape from his control without extinguishing it or using every effort to extinguish it, shall be guilty of a misdemeanor and upon conviction is punishable by a fine of not less than fifty dollars, nor more than one thousand dollars, or imprisonment for not less than thirty days nor more than one year, or both such fine and imprisonment. Setting such fires or allowing them to escape shall be *prima facie* proof of willfulness, malice or neglect under this section, *provided*, that nothing herein contained shall apply to a person who, in good faith, sets a back fire to check a fire already burning. [L. 1905, ch. 264, sec. 14=Gen. Laws 1915 (Deering), act 1216, sec. 14.] (*See also No. 57, penalty clause, (1), (2), (7); and note 2, par. 2, on p. 22.*)

**No. 15.** Every person who, upon departing from a camp or camping place, leave [*leaves*] fire burning or unextinguished, or who, after building such fire allows it to spread, shall be guilty of a misdemeanor and punishable by a fine of not less than fifty dollars nor more than five hundred dollars, with costs of suit and collection, one-half of such fine or such a portion thereof as shall not exceed fifty dollars, to be paid to the person securing the arrest and conviction of such offender, and if the defendant refuses or neglects to pay the fine and costs imposed, he shall be confined in the county jail of the county in which conviction shall be had, for a period not to exceed one day for every two dollars of the fine imposed, or may be subject to both such fine and imprisonment. [L. 1905, ch. 264, sec. 15=Gen. Laws 1915 (Deering), act 1216, sec. 15.] (*See also No. 57, penalty clause, (6), (7).*)

**No. 16.** It shall be unlawful during what is locally known as the "dry season," this to be considered as the period between May fifteenth and the first soaking rains of autumn or winter, for any person or persons to burn brush, stumps, logs, fallen timber, fallows, grass or forest-covered land, or blast wood with dynamite, powder or other explosives, or set off fireworks of any kind in forest or brush-covered land, either their own or the property of another, without written permission of and under the direction or supervision of a fire warden in that district; these restrictions not to apply to the ordinary use of fire or blasts in logging redwood, nor in cases where back fires are set in good faith to stop an existing fire. Violation of these provisions shall be a misdemeanor, punishable, upon conviction, by a fine of not less than fifty dollars, nor more than one thousand dollars, or imprisonment not less than thirty days nor more than one year, or both such fine and imprisonment. [L. 1905, ch. 264, sec. 16=Gen. Laws 1915 (Deering), act 1216, sec. 16.] (*See also No. 57, penalty clause, (1), (3), (7); note 2 par. 2, on p. 22; and note 11, on p. 23.*)

**No. 17.** Logging locomotives, donkey or threshing engines, and other engines and boilers operated in, through or near forests, brush or grass land, which do not burn oil as fuel, shall be provided with appliances to prevent the escape of fire and sparks from the smokestacks thereof, and with devices to prevent the escape of fire from ash-pans and fireboxes. Failure to comply with these requirements shall be a misdemeanor, punishable, upon conviction, by a fine of not less than one hundred dollars nor more than five hundred dollars, and any person violating any provision of this section shall be liable to a penalty of not less than fifty dollars nor more than one hundred dollars, for every such violation, or imprisonment for not less than thirty days nor more than three months, or both such fine and imprisonment. [L. 1905, ch. 264, sec. 17=Gen. Laws 1915 (Deering), act 1216, sec. 17.] (*See also No. 57, penalty clause, (4), (4a), (4b), (7); and note 2, par. 2, on p. 22.*)

**No. 18.** In addition to the penalties provided in sections fourteen, fifteen, sixteen and seventeen of this act, the



United States, state, county, or private owners, whose property is injured or destroyed by such fires may recover in a civil action, double the amount of damages suffered if the fires occurred through wilfulness, malice or negligence; but if such fires were caused or escaped accidentally or unavoidably, civil action shall lie only for the actual damage sustained as determined by the value of the property injured or destroyed, and the detriment to the land and vegetation thereof. The presumption of wilfulness, malice or neglect shall be overcome; *provided*, that the precautions set forth are observed; or, *provided*, fires are set during the "dry season" with written permission of and under the direction of the district firewarden. Persons or corporations causing fires by violations of this act shall be liable to the United States, state, county, or private owners in action for debt to the full amount of all expenses incurred by the United States, state, county or private owners in fighting such fires. [L. 1905, ch. 264, sec. 18; L. 1919, ch. 149, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), Penal Code, sec. 384.] (*See also No. 57; note 2, par. 2, on p. 22; and note 11, on p. 23.*)

NOTE.—The provision in the above section for double damages in cases of fires caused by negligence, being the latest legislation on the subject, supersedes all prior inconsistent enactments, such as Political Code, section 3344, and Civil Code, section 3346a, both of which provided treble damages in such cases.

**No. 19.** It shall be the duty of the state board of forestry, whenever it shall be deemed necessary, to notify the owner of any forest area within the state by a written notice to be served upon the person or persons or corporation, or either of them, owning or having charge of such area, or upon the agents, attorney or representative of either, by any firewarden, deputy firewarden or special firewarden or any employee of the state board of forestry, in the same manner as a summons in a civil action, or if such area belongs to any non-resident person or corporation and there is no person in control or possession thereof, and such non-resident person or corporation has no tenant, attorney, representative or agent upon whom such service can be had, or if the owner or owners of such area, or their tenants, attorneys, representatives, or agents can not after due diligence be found, then by posting the said notice in some conspicuous place upon such area and by mailing a copy thereof to the owner thereof at his last known place of residence if the same is known or can be ascertained, that the said state board of forestry intends to cause an inspection to be made of the said forest area for the purpose of ascertaining whether or not the same constitutes a nuisance as hereinafter provided. The said notice shall describe the forest area to be inspected by general description and shall designate the time of such inspection. At the time so designated in said notice the said state board of forestry shall cause an inspection to be made of the said forest area and the said owner or his agent shall be permitted to be present during such inspection and shall be given a full opportunity of showing that such forest area is not a nuisance as contemplated by this act. If the said state board

of forestry after such inspection finds any forest area inadequately protected adjoining, lying near, or intermingled with other forest and covered wholly or in part with inflammable debris, which by reason of such location or condition or lack of protection endangers life or property, the state board of forestry shall in writing notify the owner or owners of such areas that the condition of said areas endangers life or property and shall require such person or corporation to clean up such areas by the use of fire or otherwise at a time and in a manner to be therein specified. Said notice may be served upon the person or persons or corporation, or either of them, owning or having charge of such areas or upon the agents of either, by any firewarden, deputy firewarden or special firewarden or any employee of the state board of forestry, in the same manner as a summons in a civil action; *provided, however*, that if any such area belong to any non-resident person or corporation and there is no person in control or possession thereof and such non-resident person or corporation has no tenant, bailee, depository or agent upon whom such service can be had; or if the owner or owners of such areas can not after due diligence be found, then such notice may be served by posting the same in some conspicuous place upon such area, and by mailing a copy thereof to the owner thereof at his last known place of residence, if the same is known or can be ascertained. Any and all such inadequately protected forest areas adjoining, lying near, or intermingled with other forest and covered wholly or in part with inflammable debris, which by reason of such location or condition or lack of protection endangers life or property, are hereby declared to be a public nuisance; and whenever any such nuisance shall exist within the state, and the proper notice shall have been served, as herein provided, and the time specified in said notice shall have elapsed without the nuisance having been abated, it shall be the duty of the state board of forestry to cause said nuisance to be at once abated, by burning or otherwise disposing of the inflammable debris. The expense thereof shall be paid by the state in like manner as bills for fire fighting are paid. Any and all such sum or sums so paid shall be and become a lien on the property from which said nuisance has been removed or abated in pursuance of this section, and said lien shall continue as long as the said sum or sums above referred to shall remain unpaid. The claim for any lien shall be filed by the state forester, or, under his direction, by any of his assistants or firewardens, in the office of the county recorder of the county in which the property on which said nuisance existed is situated. Proceedings for the enforcement of such lien shall be instituted by the district attorney of the county where the nuisance existed, at the request of the state board of forestry and in the name of the State of California as claimant; and the costs shall be recovered in the usual manner. The state board of forestry is hereby vested with the power to cause any and all such nuisances to be abated in a summary manner. [L. 1905, ch. 264, sec. 19; L. 1911, ch. 392, sec. 1=Gen. Laws 1915 (Deering), act 1216, sec. 19.]



**No. 20.** All moneys received as penalties for violations of the provisions of this act, less the cost of collection, and not otherwise provided for, shall be paid into the state treasury to the credit of the forestry fund, which fund is hereby created, and the moneys therein are hereby appropriated for purposes of forest protection, management and replacement under direction of the state board of forestry. [L. 1905, ch. 264, sec. 20=Gen. Laws 1915 (Deering), act 1216, sec. 20.] (*See also note 5, on p. 22.*)

**No. 21.** County boards of supervisors may appropriate money for purposes of forest protection, improvement and management. [L. 1905, ch. 264, sec. 21=Gen. Laws 1915 (Deering), act 1216, sec. 21.] (*See also No. 56.*)

**No. 22.** The salary of the state forester shall be three thousand dollars per annum. The state forester shall have authority to appoint a deputy forester at a salary of two thousand four hundred dollars per annum and an assistant forester at a salary of one thousand six hundred dollars per annum. The deputy forester shall exercise all the powers and duties of the state forester during the latter's absence. All the salaries mentioned herein are to be paid in the same manner as the salaries of other state officers are paid. [L. 1905, ch. 264, sec. 2; L. 1909, ch. 393, sec. 1; L. 1917, ch. 238, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1222.]

**No. 23.** There is hereby established a state nursery under the jurisdiction and management of the state forester for the growing of stock for reforestation of public lands, the planting of trees along public streets and highways and for the beautifying of parks and school grounds. The state nursery shall be located by the state forester upon lands now owned by the state or donated to the state for that purpose. [L. 1917, ch. 475, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1224, sec. 1.]

**No. 24.** The state forester shall construct and maintain such buildings, improvements and equipment, and shall employ and fix the compensation of such employees as may be necessary to carry out the provisions of this act. He may also purchase nursery stock and seed and distribute the same at cost for public planting or reforestation. [L. 1917, ch. 475, sec. 2=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1224, sec. 2.]

**No. 25.** The governor, on behalf of the state, is hereby authorized to receive all such deeds, conveyances, assurances or donations of real or personal property as may be necessary in law to vest in the people of the State of California the title to any site or sites for said nursery and any equipment and supplies therefor that may be donated to the state and accepted by the governor. [L. 1917, act 475, sec. 3=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1224, sec. 3.]

**No. 26.** Out of any money in the state treasury not otherwise appropriated there is hereby appropriated the sum of fourteen thousand dollars for the purposes of this

act. [L. 1917, ch. 475, sec. 4=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1224, sec. 4.] (*See also note 4, on p. 22.*)

**No. 27.** There is hereby organized, created, established and incorporated a forest fire district within the county of Marin, to be known as "Tamalpais forest fire district," the boundaries of which are hereby established, described and determined as follows, to wit: Commencing at the point where the electric pole line of the Pacific Gas and Electric Company running from the Alto power house to Bolinas first joins the state highway between the town of Mill Valley and Alto; running thence along the line of said pole line, southerly, southwesterly, and westerly across the Rancho Saucelito and the Rancho Las Baulinas until the said pole line crosses the county road along the easterly side of Bolinas inner bay or lagoon; running thence northwesterly along said county road to its intersection with the lower county road leading from Bolinas to Olema; running thence northwesterly along said Bolinas and Olema county road to its intersection with the Tocaloma road at the village of Olema; running thence easterly along said county road leading to Tocaloma to its intersection with the county road running along the easterly bank of Paper Mill creek; running thence northerly and easterly along said county road running along the easterly bank of Paper Mill creek to the mouth of Nicasio creek; running thence up the county road running up Nicasio creek, in an easterly and southerly direction, through the village of Nicasio to the intersection of the Nicasio and San Geronimo county road with the Lucas Valley county road; thence easterly along said Lucas Valley county road to its intersection with the state highway at Las Gallinas; thence southerly along the state highway as at present laid out to the northerly corporate limits of the city of San Rafael; thence westerly along said northerly corporate limits of said city of San Rafael to the easterly corporate limits of the town of San Anselmo; thence southerly along the easterly corporate limits of the town of San Anselmo to the easterly corporate limits of the town of Ross; thence southerly along the easterly corporate limits of the town of Ross and westerly along the southerly corporate limits of the town of Ross to the intersection thereof with the state highway; thence southerly along the state highway to the northwesterly corporate limits of the town of Larkspur; thence northerly, easterly and southerly, along the corporate limits of the town of Larkspur to their intersection with the northerly corporate limits of the town of Corte Madera; thence easterly, southerly and westerly along the corporate limits of the town of Corte Madera to their intersection with the state highway; and thence southerly along the state highway to the point of beginning. [L. 1917, ch. 560, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 1.]

**No. 28.** Within thirty days after this act shall go into effect, a governing board of trustees for said district shall be appointed. Said board shall consist of one trustee to



be appointed from said district at large by the board of supervisors of said county of Marin, and of one trustee to be appointed from each municipality lying wholly or partially within said district by the governing board of such municipality. The governing board of such district shall be called "the board of trustees of Tamalpais forest fire district." Each trustee appointed by a municipal board shall be an elector of the municipality from which he is appointed, and each appointee of the board of supervisors shall be an elector of the district. All such trustees shall hold office for the term of two years from and after the second day of the calendar year succeeding their appointment; *provided, however*, that the first board of trustees appointed under the provisions of this act shall, at their first meeting, so classify themselves by lot that one-half of their number, if the total membership is an even number, and if uneven then that a majority of their number, shall go out of office at the expiration of one year and the remainder at the expiration of two years, from the second day of the calendar year succeeding their appointment. [L. 1917, ch. 560, sec. 2=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 2.]

**No. 29.** The members of the board of trustees shall meet on the first Monday subsequent to thirty days after this act shall go into effect and shall organize by the election of one of their members as president and one thereof as secretary. The members of the board shall serve without compensation provided that the necessary expenses of each member for actual traveling expenses on meetings or business connected with said board shall be allowed and paid. In event of the resignation, death or disability of any member, his successor shall be appointed by the board of supervisors, if such board originally made such appointment, or by the governing board of the appropriate municipality, if such appointment were originally made by the board of a municipality. The board of trustees shall provide for the time and place of holding its regular meetings, and the manner of calling the same, and shall establish rules for its proceedings. Special meetings may be called by three trustees and notice of the holding thereof shall be given to each member at least three hours before the meeting. All sessions, whether regular or special, shall be open to the public and a majority of the members of the board shall constitute a quorum for the transaction of business. [L. 1917, ch. 560, sec. 3=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 3.]

**No. 30.** The board of trustees of such district shall have power to take all necessary or proper steps for the prevention or extinguishing of forest, brush, or grass fires within the district, and for the protection of persons or property from any injury, loss, or damage resulting from any such fire or fires; to purchase such supplies and materials and to employ such labor or skilled services as may be necessary or proper in furtherance of the objects of this act, and if necessary or proper in the furtherance of the same to build, construct, and thereafter to keep clear and maintain necessary fire roads or fire trails, hydrants, or other fire-

fighting apparatus upon the lands within the district or adjacent thereto, and to acquire by purchase, condemnation, license or other lawful means, in the name of the district, all necessary lands, rights-of-way, easements or property or material requisite or necessary for any of such purposes; to make contracts, to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of the powers by this act conferred, or arising out of the use, taking or damage of such property for any such purposes, and generally to do any and all things necessary or incident to the powers hereby granted and to carry out the objects specified herein. [L. 1917, ch. 560, sec. 4=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 4.]

**No. 31.** The board of trustees of said district shall at least fifteen days before the first day of the month in which the board of supervisors of Marin county is required by law to levy the amount of taxes required for county purposes, furnish to said board of supervisors and to the county auditor of said county, respectively, an estimate in writing of the amount of money necessary for all purposes required under the provisions of this act during the next ensuing fiscal year. The board of supervisors of such county shall thereafter at the time and in the manner of levying other county taxes levy upon all of the taxable property within the district and cause to be collected a tax, to be known as the "Tamalpais forest fire district tax," the maximum rate of which must not be greater than sufficient to raise the amount estimated to be raised by the said board of trustees of the district, nor in any event shall such tax exceed ten cents on each one hundred dollars of taxable property in such district.

All taxes levied under the provisions of this section shall be computed and entered on the county assessment roll of said county by the county auditor thereof, and collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury of said county for the use of said district.

The funds shall be withdrawn from said county treasury upon the warrant of the board of trustees of such district signed by the president or acting president of the board, and countersigned by its secretary. [L. 1917, ch. 560, sec. 5=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 5.]

**No. 32.** The board of trustees of such forest fire district, prior to its estimate of the amount of money necessary for all purposes of the district for the ensuing fiscal year, as hereinabove provided, may request from the governing board or body having jurisdiction and control over any forest, brush or grass lands within such district owned or held for any purpose whatsoever by the State of California, or any county, city, township, municipal corporation, public corporation, or other political corporation or subdivision of the state, a proposal or promise as to what amount, if any, the State of California, or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of the state own-



ing or holding such lands, will agree to pay to such district towards its necessary expenses for the next ensuing fiscal year, or such proposal may be for the next two ensuing fiscal years in the event that such lands shall be under the control of the State of California, in consideration of said district taking over the supervision and concurrent control, as hereinafter set forth, of such lands so owned or held, only, however, in so far as is necessary or proper to prevent or extinguish forest, brush or grass fires thereon or within such district, or to protect persons or property from any injury, loss or damage resulting from any such fire, and said governing body having jurisdiction and control over such lands is hereby authorized and empowered, for the consideration aforesaid, to propose or promise, as aforesaid, and so obligate the State of California or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of the state owning or holding such lands respectively, to such district upon its board of trustees accepting such proposal for such purpose, whereupon such agreement shall be duly executed in the form of a contract, and such district shall thereupon take over the supervision and control of the prevention and extinguishing of forest, brush or grass fires upon such lands in the manner aforesaid for the next ensuing fiscal year, or for the life of such contract. [L. 1917, ch. 560, sec. 6=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 6.] (*See also No. 52; and note 8, on p. 23.*)

**No. 33.** Any territory, incorporated or unincorporated, lying adjacent and contiguous to said forest fire district, and within the same county therewith, may be added and annexed to such district, at any time, upon proceedings being had and taken as in this act provided and any territory, incorporated or unincorporated, laying within said district, may be withdrawn and excluded therefrom upon proceedings being had and taken as in this act provided. The board of trustees of such district upon receiving a written petition containing a description of the new territory sought to be annexed to such district, signed by the owners comprising more than one-half of the assessed value of such territory as shown by the last county assessment roll, must thereupon submit to the electors of the district and also to the electors residing in the territory sought to be annexed, the proposition of whether such proposed territory shall be annexed and added to such district. The proposition to be submitted to the electors at such election, both within said district and within said territory so proposed to be annexed, shall be as follows: "for annexation," or "against annexation," or words equivalent thereto. Such election must be called and held, and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in such district, and also in a newspaper, if any, printed and published in such territory so proposed to be annexed. The board of trustees, shall canvass, separately, the votes cast within said district, and the votes cast within said territory

so proposed to be annexed, and if it shall appear from such canvass that a majority of all the ballots cast in such district and a majority of all the ballots cast in such territory so proposed to be annexed are in favor of annexation, the board of trustees shall certify such fact to the secretary of state describing said property proposed to be annexed and upon receipt of such last mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that the territory (describing the same) has been annexed and added to the Tamalpais forest fires district and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of said county in which such forest fire district is situated. From and after the date of such certificate the territory named therein shall be deemed added and annexed to and form a part of said forest fire district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. If the property so proposed to be annexed is included within a municipality, consent to such annexation shall first be obtained from the governing board of such municipality, and an authenticated copy of the resolution or order of such board so consenting to such annexation, shall be attached to the petition, and be made a part thereof. At any time after the organization of said forest fire district, and the appointment of the board of trustees thereof, the owner or owners of the record title to any land or lands within said district may file a petition with the board of supervisors of the county praying that his or their lands be excluded from the district; *provided*, that no petition shall be presented or received for the exclusion of lands which, either by themselves, or together with other lands included in the same petition, do not lie adjacent to the exterior boundaries of said forest fire district. At its first regular meeting after the filing of such petition the board of supervisors shall, by its order, set said petition for hearing, which hearing shall not be more than forty days nor less than ten days from the date of its said order. Notice of such hearing shall be mailed to the petitioners, and to the members of the board of trustees of the forest fire district at least one week before the hearing. At such hearing, or at any continuation thereof, the board of supervisors shall hear and determine the facts urged for or against said petition, and shall make a finding determining whether or not the said lands petitioned to be withdrawn, or any part thereof, shall be withdrawn from the district. In case such finding shall be in favor of excluding such lands, or any portion thereof from the district, the board of supervisors shall make its order certifying such fact to the secretary of state, describing said property proposed to be excluded by said findings, and upon receipt of such last mentioned certificate, the secretary of state shall issue his certificate reciting that the territory (describing the same) has been excluded from the Tamalpais forest fire district, and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of the county of Marin. From and after the date of such certificate, the territory described therein shall be deemed excluded from



said forest fire district. [L. 1917, ch. 560, sec. 7=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 7.]

**No. 34.** The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called either by its board of trustees or by petition signed by twenty-five per cent of the registered voters within the district upon the question of dissolution, and the proposition which shall be submitted to the electors at such election shall be as follows: "Shall the district be dissolved?" Such election must be called and held; and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in such district. If two-thirds of the votes at such election shall be in favor of the dissolution of the district, the board of trustees shall certify such fact to the secretary of state, and upon receipt of such last mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that said forest fire district has been dissolved, and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of said county in which such forest fire district is situated. From and after the date of such certificate the district named therein shall be deemed dissolved, and the property of the district shall thereupon vest in the county wherein said district is situate, if the district at the time of its dissolution comprises unincorporated territory alone, and if it comprises incorporated territory alone, or partly incorporated and partly unincorporated territory, then in such event its property shall be ratably apportioned amongst the several municipalities and the county in proportion to the assessed value of the property included within said district as shown upon the last county assessment roll; *provided, however,* that any real property, easements or rights of way belonging to said district shall in such event remain the property of the municipality wherein the same is situate, if situated within incorporated territory, otherwise the same shall remain the property of the county. [L. 1917, ch. 560, sec. 8=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 8.]

**No. 35.** Every notice herein required to be published may be published in a daily or weekly or semiweekly newspaper; and if there is no daily, or weekly or semi-weekly newspaper published within the district or within a subdivision thereof or other territory wherein the same is required to be published, then such notice shall be posted for the length of time herein required for the publication of the same in three public places of such district or such subdivision thereof or such other territory as the case may be. The term "municipality," as used in this act, shall include a city or town, and shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes. The word "district" shall apply,

unless otherwise expressed or used, to said forest fire district formed under the provisions of this act, and the word "trustees," and the words "board of trustees," shall apply to the trustees and the board of trustees of such district. [L. 1917, ch. 560, sec. 9=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 9.]

**No. 36.** The provision herein contained for the entering into proposals and contracts with said forest fire district by the State of California, or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of this state, is hereby declared to be optional and permissive and no further authority of law shall be required for such proposals or contracts than that herein contained, and no further authority of law shall be required than that contained in this act for the levy of taxes by boards of supervisors for the purposes herein specified, and no further authority shall be required by law for the bringing of actions in eminent domain, for the acquiring by said forest fire district of rights of way for fire roads or trails, and easements to cut timber, brush or grass thereon, and to maintain the same, than the authority contained in this act. [L. 1917, ch. 560, sec. 10=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 10.]

**No. 37.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. [L. 1917, ch. 560, sec. 11=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 11.]

**No. 38.** For the prevention and suppression of forest fires the state board of forestry shall—

(a) Make and enforce such rules and regulations as may be necessary and proper for the organization, maintenance, government and direction of the fire protective system provided for in this act;

(b) Divide the state into such number of suitable and convenient fire districts as may be necessary;

(c) Appoint a district fire ranger for each of such fire districts to serve during the seasons when fires are liable to occur at a salary of not to exceed one hundred fifty dollars per month and necessary expenses. Said district fire rangers shall, under the direction of the state forester, have charge of the fire fighting system and men in such districts; and shall be charged with the duty of preventing and extinguishing forest fires and with the performance of such other duties as may be required by the forester;

(d) Provide all proper fire-prevention and fire-fighting implements and apparatus, organize fire companies and establish observation stations and employ men to attend them in all fire districts established as herein provided;



construct and maintain telephone lines and provide such other means of communication as shall be necessary to prevent and extinguish forest fires. [L. 1919, ch. 176, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 1.]

**No. 39.** For the purpose of co-operating with federal, county, municipal and private agencies for fire protection, forest management, reforestation and afforestation the state forester may—

(a) Enter into agreements with the federal government, under such terms as he deems advisable or as may be provided by law, and renew, revise or terminate such agreements, for the purpose of maintaining a fire patrol system for the prevention and suppression of any forest fires in any timber, brush, grass or other inflammable vegetation or material; *provided*, that the expenses incurred by the terms of said agreements shall be paid from the appropriations or funds available for forest fire protection.

(b) Whenever any county or municipality shall make any appropriation for the prevention and suppression of forest fires on any lands within said county, or municipality, or for the protection and forest management of any lands over which such county or municipality has jurisdiction, or for reforestation or afforestation on lands within said county or municipality, the state forester may, with the approval of the state board of control, enter into agreements with such county or municipality for said purposes on such terms and under such consideration as he deems wise.

(c) Enter into agreements, with the approval of the state board of control, with any person, firm, association or corporation owning or controlling any forest, brush, grass or grain lands, under such terms as he deems advisable or as may be provided by law, and renew, revise or terminate such agreements, for the prevention and suppression of forest fire; *provided*, that said agreements shall not provide that the state shall pay more than one-third of the expenses for said prevention and suppression of forest fires; *provided, however*, that the expenses incurred by the terms of said agreements shall be paid from the appropriations or funds available for forest fire protection. [L. 1919, ch. 176, sec. 2=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 2.] (*See also note 2, par. 4, on p. 22.*)

**No. 40.** Where owners of land, or any organization, shall maintain a fire patrol for the prevention and suppression of forest fires the state forester may designate such patrolman as special fire ranger and give to him, for the protection of lands patrolled by him or adjacent thereto, all the rights and powers of district fire rangers as herein provided; and such special fire rangers shall be paid wholly by such owners or organizations or as may be provided for by section two of this act. [L. 1919, ch. 176, sec. 3=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 3.] (*See also "District Fire Rangers," on p. 5.*)

**No. 41.** The state forester, deputy state forester and assistant state foresters shall have power to summon any able-bodied male to assist in suppressing any forest fire; and whosoever fails to obey such summons shall be guilty of a violation of this act; and the above-mentioned officers shall have power to authorize any district fire ranger, special fire ranger or any voluntary fire warden to summon any able-bodied man to assist in suppressing any forest fire within their respective jurisdictions, and whosoever fails to obey such summons from any such authorized district fire ranger, special fire ranger or voluntary fire warden shall be deemed guilty of a violation of this act; and every person who in obedience to such summons assists in extinguishing any forest fire shall be compensated at the rate of twenty-five cents per hour of service actually rendered; *provided*, that said compensation shall be paid from the appropriations or funds available for forest fire protection. [L. 1919, ch. 176, sec. 4=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 4.] (*See also note 2, par. 1, on p. 22.*)

**No. 42.** The state forester, deputy state forester, assistant state foresters, district fire rangers and special fire rangers, shall have the powers of peace officers to make arrests without warrant, for violation of any state, county or federal fire law, and none of them shall be liable to civil action for trespass committed in the discharge of their duties. [L. 1919, ch. 176, sec. 5=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 5.] (*See also No. 9; and note 2, par. 3, on p. 22.*)

**No. 43.**—The term "forest fire" as used in this act, means any fire burning uncontrolled on any lands covered wholly or in part by timber, brush, grass, grain, or other inflammable vegetation. [L. 1919, ch. 176, sec. 6=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 6.]

**No. 44.**—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall be punishable upon conviction by a fine of not less than fifty dollars nor more than five hundred dollars, and if the defendant refuses, on conviction, to pay said fine he shall be confined in the county jail of the county in which conviction shall be had for a period not to exceed one day for every two dollars of the fine imposed, or may be subject to both such fine and imprisonment. [L. 1919, ch. 176, sec. 7=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 7.]

**No. 45.**—Out of any money in the state treasury not otherwise appropriated, there is hereby appropriated the sum of five thousand dollars during the seventy-first and seventy-second fiscal years, which money shall be used and expended for the purpose of preventing forest fires, and the construction and maintenance of fire trails and fire breaks in the San Antonio canyon in the San Gabriel mountains, California, and the canyons adjacent thereto. [L. 1919, ch. 409, sec. 1=Supp. 1917-1919 to Codes and



Gen. Laws 1915 (Deering), act 1171a.] (*See also note 4, on p. 22.*)

**No. 46.**—The state board of control is hereby authorized and empowered to enter into a contract or contracts with the San Antonio Fruit Exchange, a corporation organized and existing under and by virtue of the laws of the State of California, for the purpose of protecting San Antonio canyon from devastation by fire; *provided, however*, that the expenditures for such purposes shall not be in excess of the amount expended by the said San Antonio Fruit Exchange, the San Antonio Water Company, and the counties of San Bernardino and Los Angeles, in collaboration with the specific work named above; *provided, further*, that in the event that the said San Antonio Fruit Exchange, San Antonio Water Company, the county of San Bernardino or the county of Los Angeles do not contribute an amount equal to the appropriation hereby made for the purposes hereinbefore specified, the state board of control shall not have power to enter into such contract or contracts with the said San Antonio Fruit Exchange for such expenditure of said money. [L. 1919, ch. 409, sec. 2=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1171a.] (*See also note 4, on p. 22.*)

**No. 47.**—The sum of twenty-five thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated to be used by the state board of forestry in preventing and fighting forest, brush, grass and grain fires within the State of California. To this end the said board with the approval of the state board of control may enter into co-operative agreements with proper representatives of the United States government, or with counties, municipalities, or individuals. [L. 1919, ch. 414, sec. 1.] (*See also note 4, on p. 22.*)

**No. 48.**—Out of any money in the state treasury not otherwise appropriated, there is hereby appropriated the sum of one thousand six hundred dollars, of which eight hundred dollars is to be expended annually during the seventy-first and seventy-second fiscal years, which moneys shall be used and expended for the purpose of preventing and extinguishing forest fires and the constructing and maintaining of fire trails and firebreaks in the San Dimas canyon in the San Gabriel mountains, California, and the canyons adjacent thereto; *provided, however*, that the money herein appropriated to be expended annually shall not become available until there shall have been deposited in the state treasury for this purpose an amount equal thereto, by the San Dimas Fruit Exchange, the county of Los Angeles, or by any individual or corporation of by any or all of them. [L. 1919, ch. 581, sec. 1.] (*See also note 4, on p. 22.*)

**No. 49.**—The moneys provided under the provisions of section one hereof shall be expended under the direction of the state forester. [L. 1919, ch. 581, sec. 2.]

**No. 50.** Out of any moneys in the state treasury not otherwise appropriated, there is hereby appropriated the

sum of three thousand dollars, of which one thousand five hundred dollars is to be expended annually during the seventy-first and seventy-second fiscal years, which moneys shall be used and expended for the purpose of preventing and extinguishing forest fires, and constructing and maintaining of fire trails and fire breaks in the San Gabriel canyon in the San Gabriel mountains, California, and the mountains adjacent thereto; *provided, however*, that the money herein appropriated to be expended annually shall not become available until there shall have been deposited in the state treasury for this purpose an amount equal thereto by the Azusa Irrigation Company, the Covina Irrigation Company, the county of Los Angeles or by any individual or corporation or by any or all of them. [L. 1919, ch. 582, sec. 1.] (*See also note 4, on p. 22.*)

**No. 51.** The moneys provided under the provisions of section one hereof shall be expended under the direction of the state forester. [L. 1919, ch. 582, sec. 2.] (*See also note 4, on p. 22.*)

**No. 52.** Out of any money in the state treasury not otherwise appropriated there is hereby appropriated annually the sum of two thousand five hundred dollars during the seventy-first and seventy-second fiscal years which money shall be used and expended for the purposes of preventing forest fires and the construction and maintenance of fire trails and fire breaks in the Tamalpais forest fire district in Marin county, California. The state board of control is hereby authorized and empowered to enter into a contract or contracts with the Tamalpais forest fire district, a public corporation of the State of California, for the purpose of protecting the area embraced in the Tamalpais forest fire district from devastation by fire; *provided, however*, that the expenditures for such purposes shall not be in excess of the amount expended by the said Tamalpais forest fire district; *provided, further*, that in the event the said Tamalpais forest fire district does not contribute an amount equal to the appropriation hereby made during the fiscal years herein above specified, the state board of control shall not have power to enter into such contract or contracts with the Tamalpais forest fire district for such expenditure of said money. [L. 1919, ch. 593, sec. 1.] (*See also No. 32; and note 4, on p. 22.*)

**No. 53.** The sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated, which money shall be used and expended for the purpose of constructing and maintaining fire lanes and fire trails to protect the timber and brush and other growth on the water shed now standing or that may be planted upon the San Bernardino mountains, in the State of California. [L. 1919, ch. 597, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1223.] (*See also note 4, on p. 22.*)

**No. 54.** The state board of control is hereby empowered to enter into a contract or contracts with the forest service of the United States government for the purpose of constructing and maintaining fire lanes and fire trails for the



protection of the forest and brush specified in section one of this act; *provided, however*, that these expenditures shall not be in excess of the amount or amounts to be expended by the forest service of the federal government in collaboration with the specific work named above; *and provided, further*, that in case the forest service above mentioned does not contribute the fund for said co-operation, that the state board of control shall not have power to enter into such contract or contracts with the said forest service for the expenditure of the said money. [L. 1919, ch. 597, sec. 2=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1223.] (*See also note 4, on p. 22.*)

**No. 55.** Whenever the woods are on fire any justice of the peace, or constable, or road-overseer of the township or district where the fire exists, may order as many of the inhabitants liable to road poll-tax, residing in the vicinity, as may be deemed necessary, to repair to the place of the fire and assist in extinguishing or stopping it. [Pol. Code 1872, sec. 3345; \* \* \*; Pol. Code (Deering), 1915, sec. 3345.] (*See also note 6, on p. 22.*)

**No. 56.** The boards of supervisors, in their respective counties shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law:

\* \* \* \* \*

Subsection 40. \* \* \* To appropriate a sum not exceeding two cents per 100 dollars of the assessed valuation of their county in any one year, in addition to any sum which may be chargeable to the county for the repayment of money expended by the state for protection against fire in such county, for the purpose of protecting forest, brush and grass lands therein, against fire or other injury, and of aiding the state and federal authorities in forestry work. [L. 1905, ch. 337, sec. 1=Gen. Laws 1906 (Deering), act 837, sec. 33½; \* \* \*; Pol. Code, sec. 4041, preamble and subsec. 40, as reenacted in L. 1919, ch. 377, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), Pol. Code, sec. 3041, preamble and subsec. 40.]

**No. 57.** Any person who shall wilfully or negligently commit any of the acts hereinafter enumerated in this section shall be guilty of a misdemeanor, and upon conviction thereof be punishable by a fine of not less than fifty nor more than five hundred dollars, or imprisonment in the county jail not less than fifteen days nor more than six months, or both such fine and imprisonment, except that in the case of an offense against subsection five of this section the fine imposed may be not less than ten dollars. (*See also note 10, on p. 23.*)

1. Setting fire, or causing or procuring fire to be set to any forest, brush or other inflammable vegetation growing on lands not his own, without the permission of the owner of such land; *provided*, that no person shall be convicted under this section who shall have set in good faith and with reasonable care, a backfire for the purpose of stopping the progress of a fire then actually burning.

2. Allowing fires to escape from the control of the persons having charge thereof, or to spread to the lands of any per-

son other than the builder of such fire without using every reasonable and proper precaution to prevent such fire from escaping.

3. Burning brush, stumps, logs, rubbish, fallen timbers, fallows, grass or stubble, or blasting with dynamite, powder or other explosives, or setting off fireworks, whether on his own land or that of another, without taking every proper and reasonable precaution both before the lighting of said fire and at all times thereafter to prevent the escape thereof; *provided*, that any firewarden may, at his discretion, give a written permit to any person desiring to burn or blast as aforesaid; such permit shall contain such rules and regulations for the building and management of such fires as the state board of forestry may from time to time prescribe; and in any prosecution under this subsection it shall be prima facie evidence that the defendant has taken proper and reasonable precautions to prevent the escape of such fire, when he shall show that he has received such a permit and has complied with all the rules and regulations therein prescribed. (*See also note 11, on p. 23.*)

4. Using any logging locomotive, donkey or threshing engine, or any other engine or boiler, in or near any forest, brush, grass, grain or stubble land, unless he shall prove upon the trial, affirmatively, that such engines or boilers used by him were provided with adequate devices to prevent the escape of fire or sparks from smokestacks, ash pans, fire boxes, or other parts, and that he has used every reasonable precaution to prevent the causing of fire thereby.

4a. Harvesting grain or causing grain to be harvested by means of a combined harvester, header, or stationary threshing machine, or baling hay by means of a hay press, unless he shall keep at all times in convenient places upon each said combined harvester, header, or stationary threshing machine, or hay press, fully equipped and ready for immediate use, two suitable chemical fire extinguishers, approved by the underwriters' laboratories, each of the capacity of not less than two and one-half gallons.

4b. Operating or causing to be operated any gas tractor, oil-burning engine, gas-propelled harvesting machine or auto truck in harvesting or moving grain or hay, or moving said tractor, engine, machine or auto truck in or near any grain or grass lands, unless he shall maintain attached to the exhaust on said gas tractor, oil-burning engine or gas-propelled harvesting machine an effective spark-arresting and burning carbon-arresting device.

5. Refusing or failing to render assistance in combating fires at the summons of any firewarden unless prevented by good and sufficient reasons.

6. Leaving a camp fire burning or unextinguished without some person in attendance, or allowing such fire to spread after being built.

7. The provisions of this section shall not apply to the setting of fire on lands within any municipal corporation of the state. [L. 1852, ch. 48, sec. 1=Penal Code, 1872, sec. 384; \* \* \*; L. 1911, ch. 699; \* \* \*; L. 1919, ch. 127=Supp. 1917-1919 to Codes and Gen. Laws (Deering), Penal Code, sec. 384.] (*See also Nos. 10; 14; 15; 16; 17; and note 2, pars. 1 and 2, on p. 22.*)



## EXPLANATORY NOTES.

**Note 1.**—No terms of office are prescribed for the several members of the State board of forestry. The State forester, however, is appointed to hold office "at the pleasure of the appointing power." No. 2.

**Note 2.**—The attorney general for California, in a letter to the Forest Service, dated July 8, 1920, states as follows:

¶1. "A reading of the California forestry act of 1905, which will be termed the basic act, discloses that the terms 'voluntary firewarden' and 'firewarden' are used interchangeably. Therefore, both firewardens and voluntary firewardens have authority, by the basic act, to call upon able-bodied citizens to assist in fighting fire, as provided by section 10 of that act. A refusal to comply will make such persons subject to the penalty imposed originally by section 10 of the basic act but now superseded by the penalty provided in section 384 of the Penal Code. [See No. 57, *penalty clause and subsec. 5.*] With this interpretation there is no conflict with chapter 176 of the statutes of 1919, for the penalty imposed by that act would be operative against a person who refused to fight fire when commanded to do so by a firewarden acting pursuant to authorization of the State forester, deputy State forester or an assistant State forester." [See Nos. 41 and 44.]

\* \* \* \* \*

¶2. [Your] "Queries four, five, and six deal with the fact that sections 14, 15, 16, and 17 of the basic act are similar to the provisions of section 384 of the Penal Code which is a later enactment dealing with the same or similar subject matter and in many ways similar. But this reenactment does not repeal any of the sections of the basic act or render them inoperative.

"Many cases may arise which are not covered by both enactments. As to these cases, the act under which they fall is operative and may be applied. In cases to which both enactments might equally apply the latter enactment and the penalty imposed thereby would, of course, prevail."

\* \* \* \* \*

¶3. "These sections [sec. 9, ch. 264, L. 1905, and sec. 5, ch. 176, L. 1919] both confer power on the State forester and other officers mentioned and these officers will draw power from both of the statutes, as the same are not in conflict. They will draw power to make arrests for forest loss from one statute and powers to make arrests for violations of fire laws from another or from both. When these officers are constituted peace officers it is, of course, incumbent upon them, without further authority, to make arrests for violation of any State law or county ordinance, and it is within the powers of the State of California to direct and empower its peace officers to make arrests for violations of Federal Law."

\* \* \* \* \*

¶4. "Section 4 of the basic act provides for cooperation by the State forester with counties, towns, corporations,

and individuals for protection and management without approval of any board. The act of 1919 [ch. 176] enlarges the class of cooperators by adding the Federal Government. Under this later act, section 2 (a) the State forester may enter into agreements with the Federal Government without the approval of the board of control.

"Section 2 (b) he may enter into agreements with counties or municipalities for protection, fire suppression or management with the approval of the board of control. This subsection apparently contemplates expenditure by the State. Section 4 of the basic act evidently intended that the cooperators bear the expense, especially since the State had not until 1919 made any appropriation to cover such expenses. Moreover, this section 4 applies only to the preparation of plans, while section 2 (b), act of 1919, embraces active participation by the State forester not only in plans but in the actual suppression and management. The State forester, under section 4 of the basic act, would still have authority to prepare plans without approval of the board. The two acts should be construed together, since they are not inconsistent. Section 2 (c), the State forester may enter into agreements with private agencies with the approval of the board, the State to bear not more than one-third of the expense."

\* \* \* \* \*

"The provisions of chapter 176 contemplate agreements to be made by the State forester wherein the State is to bear a portion of the expense not exceeding one-third, and if money is to be paid out by the State other than the ordinary fixed operating charges of the State forester's department, the agreements which it is contemplated that the State forester will make must have the approval of the State board of control. If, however, agreements are to be made wherein the State is to bear no expense, as contemplated by the basic act, the State forester may proceed as provided in that act without the approval of the State board of control."

**Note 3.**—*This note has been deleted.*

**Note 4.**—Only such laws concerning appropriations are usually compiled as provide funds available from year to year until expended. Appropriations limited to a fixed annual or biennial period of expenditure are generally omitted because of the frequent changes in the amounts. An exception to this general rule is, however, made in the case of the allotments by the State for fire protective work in certain restricted areas in California, the allotments for which are derived from appropriations made biennially. (See Nos. 45; 46; 48-54.)

**Note 5.**—A so-called "State forestry fund" was also provisionally created by Laws 1905, chapter 187, sections 1, 2; General Laws 1915 (Deering), act 1217, sections 1, 2. (See *volume of Session Laws.*)

**Note 6.**—There appears to be no specific provision made for compensating fire-fighting laborers when impressed by firewardens under the authority granted them



in section 10, chapter 264, Laws 1905 (see No. 10), or when impressed by justices of the peace, constables, or road overseers (see No. 55); nor for penalties in case of failure to comply with such summons from a justice of the peace constable, or road overseer.

**Note 7.**—The terms "trustees," "board of trustees," "municipality," and "district," as used in chapter 560, Laws 1917, are defined and applied in section 9 thereof. (See No. 35.)

**Note 8.**—Such proposals and contracts are optional and permissive on the part of the State or any of its political corporations or subdivisions within the district. No. 36.

**Note 9.**—The California Redwood Park is the only park mentioned in the act contained in chapter 264, Laws 1905, and it has since been transferred to other jurisdiction. (See, in *Sess. Laws vols.*, *L. 1911, ch. 12, secs. 1, 2, 2½*; *L. 1913, ch. 16, sec. 1*.) The Hamilton tract is also the only tract mentioned in said 1905 act; and it makes no further mention of any forest stations.

**Note 10.**—The disposition of fines recovered under Penal Code, section 384, is governed by the general provisions in Penal Code, sections 1457, 1570, under which they go into the county treasury. (See *Penal Code volume*, *Deering, 1915*.)

**Note 11.**—The permit feature of Penal Code, section 384 (see *No. 57, subsec. 3*), and also of sections 16 and 18 of chapter 264, Laws 1905 (see *Nos. 16, 18*) is a most unusual one, since the intention of this particular provision appears to be to perform the reverse of the commonly accepted function of such legislation in a majority of the other States, namely, to provide the Government a means of controlling burning, and of prosecuting offenders. In the cases under which this feature of the California law would seem most likely to be resorted to, the permit would appear to function chiefly as a means of legal defense of the permittee, rather than as a safeguard of the public interests, since possession of a permit from a firewarden and compliance therewith constitutes prima facie evidence of precautions taken. Issuance of such permit is, however, entirely discretionary with the firewarden.

**Note 12.**—The State board of control consists of three members, appointed by the governor, to hold office at his pleasure, one being designated by the governor to be chairman. The board supervises the financial and business policies and activities of the State, including all advertisements, publications, and notices by State officers, boards, etc., to be inserted in newspapers or other mediums. (See *Pol. Code, sec. 654 (Deering, 1915)*; *L. 1911 (extra sess.)*, *ch. 5, sec. 1*=*Gen. Laws (Deering, 1915), act 2503*.)

